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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED
BY STATES PARTIES UNDER ARTICLE 40
OF THE COVENANT

Comments of the Human Rights Committee

HUNGARY

1. The Committee considered the third periodic report of Hungary (CCPR/C/64/Add.2 and HRI/CORE/1/Add.11) at its 1240th to 1242nd meetings, held on 15 and 16 July 1993, and adopted* the following comments:

A. Introduction

2. The Committee welcomes the third periodic report of Hungary, and expresses its appreciation to the State party for the constructive dialogue engaged through a high-ranking delegation. The report covered the important changes which have taken place in that country since its transition to a multi-party democracy. Although the report did not provide sufficient information on the implementation of the Covenant in practice and on the factors and difficulties affecting its implementation, the very comprehensive additional information provided in the introductory statement, and in the replies given by the delegation of Hungary to the questions raised by the Committee, has enabled the Committee to have a clearer picture of the overall situation in the country as to its compliance with the obligations undertaken under the International Covenant on Civil and Political Rights.

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* At its 1259th meeting (forty-eighth session), held on 28 July 1993.

B. Positive aspects

3. The Committee notes with satisfaction that extensive reforms are currently under way in Hungary towards the development of a new legal order and the establishment of democratic institutions. The new legal framework which is emerging allows for an increasing recognition of the human rights provisions set forth in the Covenant and a better implementation of the obligations undertaken under it.

4. The Committee notes with particular satisfaction the recent adoption of a law on the rights of national and ethnic minorities; the provision according to which non-nationals permanently settled in Hungary are entitled to vote in local elections; the recently introduced legislative changes aimed at ensuring a better access to the courts; the Act on the Parliamentary Ombudsman for civil rights, as well as the draft legislation on states of emergency, which takes into account the provisions of article 4 of the Covenant. These and other recent developments clearly illustrate the commitment of the Government of Hungary to comply with its obligations under the Covenant and to establish the legal machinery for the protection and enjoyment of fundamental human rights.

C. Factors and difficulties impeding the application of the Convention

5. The Committee notes that remnants of the authoritarian rule cannot be easily overcome and recognises that much remains to be done, especially in the fields of education and training to better familiarize judges, practising lawyers, law-enforcement officials, and the public at large with the rights enshrined in the Covenant. The Committee urges the State Party to intensify its efforts so as to ensure that the various problems faced during the present transitional period do not delay the implementation of civil and political rights, in particular the freedom of association and participation in the conduct of public affairs.

D. Principal subjects of concern

6. The Committee expresses its concern over the fact that the Constitution and domestic law do not incorporate all the rights enshrined in the Covenant, and that the status of the Covenant in the Hungarian legal system is not clearly defined. In particular, the Committee is concerned about the eventual conflict between a provision of the Covenant which has not been incorporated into the Constitution and a provision of domestic law.

7. The Committee is also concerned about the provisions of the Hungarian legislation relating to pre-trial detention and the procedure for bringing a defendant to trial and about excessive duration of pre-trial detentions. These norms do not fully conform with the relevant provisions of articles 9 and 14 of the Covenant. The absence of an administrative court is also a matter of concern; it most be noted, however, that in principal administrative decisions can be appealed to the ordinary courts and that currently there is a draft bill before the Parliament concerning the establishment of administrative courts.

8. Similarly, the Committee wishes to express its concern about the use of excessive force by the police, especially against foreigners residing in Hungary and asylum seekers held in detention. The Committee further expresses concern about the grounds on which access to passports and travel abroad can be restricted, in particular, the provision relating to holders of State secrets.

9. Concern was also expressed about the provisions allowing for the expulsion of aliens from Hungary and the extent of discretion in immigration law. Another area of concern is the very low participation of women in the decision-making process and the conduct of public affairs.

10. The Committee finally expresses its concern over the persistent pattern of prejudice and discriminatory attitudes towards certain minorities including, in particular, the Roma (gypsies), as well as the occurrence of some incidents arising from hostility and xenophobia towards aliens.

E. Suggestions and recommendations

11. The Committee recommends that the State party should ensure that the provisions of the Covenant be fully incorporated into domestic law or be given direct effect. The Committee also emphasizes that the texts of the Covenant and the First Optional Protocol should be widely publicized so that the judiciary, the relevant governmental agencies, and the general public are made fully aware of the rights enshrined in the provisions of these instruments. Adequate training in human rights norms should be provided for members of the judiciary and the legal profession, as well as police and prison officials, and human rights education should be included in the school and university curricula. Positive measures should be taken to involve women in political participation and decision-making. Laws on entry, residence, detention, and expulsion of aliens need a thorough review. The Committee also recommends that attention be paid in the present and future legislation, and in practice to ensure that any limitations on human rights are strictly in conformity with those permissible under the Covenant.